

(Mar. 4, 1927, ch. 509, §37, 44 Stat. 1442.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 932.

§ 938. Penalties

(a) Failure to secure payment of compensation

Any employer required to secure the payment of compensation under this chapter who fails to secure such compensation shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or by both such fine and imprisonment; and in any case where such employer is a corporation, the president, secretary, and treasurer thereof shall be also severally liable to such fine or imprisonment as herein provided for the failure of such corporation to secure the payment of compensation; and such president, secretary, and treasurer shall be severally personally liable, jointly with such corporation, for any compensation or other benefit which may accrue under the said chapter in respect to any injury which may occur to any employee of such corporation while it shall so fail to secure the payment of compensation as required by section 932 of this title.

(b) Avoiding payment of compensation

Any employer who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secretes, or destroys any property belonging to such employer, after one of his employees has been injured within the purview of this chapter, and with intent to avoid the payment of compensation under this chapter to such employee or his dependents, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or by both such fine and imprisonment; and in any case where such employer is a corporation, the president, secretary, and treasurer thereof shall be also severally liable to such penalty of imprisonment as well as jointly liable with such corporation for such fine.

(c) Effect on other liability of employer

This section shall not affect any other liability of the employer under this chapter.

(Mar. 4, 1927, ch. 509, §38, 44 Stat. 1442; June 25, 1938, ch. 685, §14, 52 Stat. 1168; Sept. 28, 1984, Pub. L. 98-426, §22, 98 Stat. 1653.)

AMENDMENTS

1984—Subsecs. (a), (b). Pub. L. 98-426 substituted “\$10,000” for “\$1,000” wherever appearing.

1938—Act June 25, 1938, amended section generally, designating first sentence as subsec. (a) and inserting provisions respecting liability of corporate officers, adding subsec. (b), and designating second sentence as subsec. (c).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-426 effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98-426, set out as a note under section 901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 932.

§ 939. Administration by Secretary

(a) Prescribing rules and regulations; appointing and fixing compensation of employees; making expenditures

Except as otherwise specifically provided, the Secretary shall administer the provisions of this chapter, and for such purpose the Secretary is authorized (1) to make such rules and regulations; (2) to appoint and fix the compensation of such temporary technical assistants and medical advisers, and, subject to the provisions of the civil service laws, to appoint, and, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, to fix the compensation of such deputy commissioners (except deputy commissioners appointed under subsection (a) of section 940 of this title) and other officers and employees; and (3) to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, periodicals, and for printing and binding) as may be necessary in the administration of this chapter. All expenditures of the Secretary in the administration of this chapter shall be allowed and paid as provided in section 945¹ of this title upon the presentation of itemized vouchers therefor approved by the Secretary.

(b) Establishing compensation districts

The Secretary shall establish compensation districts, to include the high seas and the areas within the United States to which this chapter applies, and shall assign to each such district one or more deputy commissioners, as the Secretary deems advisable. Judicial proceedings under sections 918 and 921 of this title in respect of any injury or death occurring on the high seas shall be instituted in the district court within whose territorial jurisdiction is located the office of the deputy commissioner having jurisdiction in respect of such injury or death (or in the United States District Court for the District of Columbia if such office is located in such District).

(c) Furnishing information and assistance; directing vocational rehabilitation

(1) The Secretary shall, upon request, provide persons covered by this chapter with information and assistance relating to the chapter's coverage and compensation and the procedures for obtaining such compensation and including assistance in processing a claim. The Secretary may, upon request, provide persons covered by this chapter with legal assistance in processing a claim. The Secretary shall also provide employees receiving compensation information on medical, manpower, and vocational rehabilitation services and assist such employees in obtaining the best such services available.

(2) The Secretary shall direct the vocational rehabilitation of permanently disabled employees and shall arrange with the appropriate public or private agencies in States or Territories, possessions, or the District of Columbia for such rehabilitation. The Secretary may in his discretion furnish such prosthetic appliances or other apparatus made necessary by an injury upon

¹ See References in Text note below.

which an award has been made under this chapter to render a disabled employee fit to engage in a remunerative occupation. Where necessary rehabilitation services are not available otherwise, the Secretary of Labor may, in his discretion, use the fund provided for in section 944 of this title in such amounts as may be necessary to procure such services, including necessary prosthetic appliance or other apparatus. This fund shall also be available in such amounts as may be authorized in annual appropriations for the Department of Labor for the costs of administering this subsection.

(Mar. 4, 1927, ch. 509, §39, 44 Stat. 1442; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, §32(b), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; July 26, 1956, ch. 735, §7, 70 Stat. 656; Oct. 27, 1972, Pub. L. 92-576, §17, 86 Stat. 1262; Sept. 28, 1984, Pub. L. 98-426, §27(a)(2), (c), 98 Stat. 1654.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

Section 945 of this title, referred to in subsec. (a), was repealed by Pub. L. 98-426, §25, Sept. 28, 1984, 98 Stat. 1654. See section 944 of this title.

CODIFICATION

In subsec. (a) “chapter 51 and subchapter III of chapter 53 of title 5” substituted for “the Classification Act of 1949, as amended” on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

As originally enacted, subsec. (b) contained a reference to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted “the district court of the United States for the District of Columbia” for “the Supreme Court of the District of Columbia”, and act June 25, 1948, as amended by act May 24, 1949, substituted “United States District Court for the District of Columbia” for “district court of the United States for the District of Columbia”.

Former second sentence of subsec. (c), providing that the Federal Board for Vocational Education should cooperate with the Employees’ Compensation Commission in such educational work has been omitted. The functions of the Board were transferred to the Department of Interior by Ex. Ord. No. 6166, §15, June 10, 1933, and then to the Federal Security Agency by Reorg. Plan No. 1 of 1939, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424. The Commission was abolished and its functions transferred to the Federal Security Administrator and the Federal Board for Vocational Education was abolished by Reorg. Plan No. 2 of 1946, former sections 3 and 8, respectively, set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-426, §27(c), substituted “Secretary” for “United States Employees’ Compensation Commission”. See Transfer of Functions note set out under section 902 of this title.

Subsecs. (b), (c)(2). Pub. L. 98-426, §27(a)(2), substituted “Secretary” for “commission”. See Transfer of Functions note set out under section 902 of this title.

1972—Subsec. (c). Pub. L. 92-576 added par. (1) and redesignated existing provisions as par. (2).

1956—Subsec. (c). Act July 26, 1956, substituted “rehabilitation” for “education” at end of first sentence, and substituted last two sentences, relating to use of special fund where necessary rehabilitation services are

not available, and availability of fund in amounts authorized annually for the Department of Labor for former sentence which provided that “If any surplus is left in any fiscal year in the fund provided for in section 944 of this title, such surplus may be used in subsequent fiscal years for the purposes of administration and investigation.”

1949—Subsec. (a). Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-426 effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98-426, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as a note under section 902 of this title.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

CROSS REFERENCES

Employees of nonappropriation fund instrumentalities of armed services, see section 8171 et seq. of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 944 of this title; title 5 sections 7151, 8171.

§ 940. Deputy commissioners

(a) Appointment; use of personnel and facilities of boards, commissions, or other agencies; expenses and salaries

The Secretary may appoint as deputy commissioners any member of any board, commission, or other agency of a State to act as deputy commissioner for any compensation district or part thereof in such State, and may make arrangements with such board, commission, or other agency for the use of the personnel and facilities thereof in the administration of this chapter. The Secretary may make such arrangements as may be deemed advisable by him for the payment of expenses of such board, commission, or other agency, incurred in the administration of this chapter pursuant to this section, and for the payment of salaries to such board, commission, or other agency, or the members thereof, and may pay any amounts agreed upon to the proper officers of the State, upon vouchers approved by the Secretary.

(b) Appointment in Territories and District of Columbia; compensation

In any Territory of the United States or in the District of Columbia a person holding an office under the United States may be appointed deputy commissioner and for services rendered as deputy commissioner may be paid compensation, in addition to that he is receiving from the United States, in an amount fixed by the Secretary in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(c) Transfers to other districts; temporary details

Deputy commissioners (except deputy commissioners appointed under subsection (a) of this section) may be transferred from one compensation district to another and may be tempo-